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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,084	04/30/2001	John Mantegna	06975-207001	1606
26171	7590	10/19/2006	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			LAZARO, DAVID R	
		ART UNIT	PAPER NUMBER	2155

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/845,084	MANTEGNA ET AL.
	Examiner	Art Unit
	David Lazaro	2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08/07/2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-35 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 1-26 is/are allowed.
 6) Claim(s) 27-35 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the RCE filed 08/07/2006.
2. Claims 1, 10 and 17 were amended.
3. Claims 1-35 are pending in this office action.

Response to Amendment

4. Applicant's arguments, see remarks, filed 08/07/2006, with respect to claims 1-26 have been fully considered and are persuasive. The previous grounds of rejection with respect to claims 1-26 have been withdrawn.

Claim Rejections - 35 USC § 112

5. Claim 32 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 32 recites the limitation "wherein modifying the number of samples". There is insufficient antecedent basis for this limitation in the claim. Adding the limitation "modifying the playback data block by inserting or removing a number of samples that is based on the determined number of samples" (or similar limitation) to claim 27 would be sufficient to overcome this rejection.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 27-35 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 27 does not produce a concrete and tangible result. Claim 27 is directed towards a method for temporal drift correction involving comparing, weighting, dividing and determining steps. The determining step determines a number of samples to be inserted in or removed from a playback data block. However, this is only a determination of a number, which is not a concrete and tangible result. While a purpose is stated, no actual application of the determined number is claimed. Therefore the determination of a number of samples is only a manipulation of an abstract idea. As such, claim 27 does not produce a concrete and tangible result and is therefore directed to non-statutory subject matter.

9. Adding the limitation "modifying the playback data block by inserting or removing a number of samples that is based on the determined number of samples" (or similar limitation) to claim 27 would be sufficient to overcome this rejection.

Allowable Subject Matter

10. Claims 1-26 are allowed.
11. The following is a statement of reasons for the indication of allowable subject matter: The primary reasons for allowance is the inclusion of the following limitations in each of the independent claims 1, 10 and 17, directed towards a method (and

corresponding computer program and system) for temporal drift correction in a real-time electronic communication:

“ weighting the comparison result with a parameter that relates to and amplifies a perceived value of temporal drift;
determining, based on the comparison weighted with the parameter, a number of samples to be inserted in or removed from a playback data block; and modifying the playback data block by inserting or removing a number of samples that is based on the determined number of samples” (from claim 1, similar limitation in claims 10 and 17).

This subject matter is not found in the prior art, nor is it obvious in view of the prior art.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
13. U.S. Patent 6,665,317 by Scott “Method, system, and computer program product for managing jitter” December 16, 2003. Discloses management of a jitter buffer including adjustments to the size of the jitter buffer. Does not disclose weighting a comparison result with a parameter that relates to and amplifies a perceived value of temporal drift and subsequently using this to determine a number of samples to be inserted or removed. .

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lazaro whose telephone number is 571-272-3986. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


David Lazaro
October 13, 2006


SALEH NAJJAR
SUPERVISORY PATENT EXAMINER